

EA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,226	10/20/2003	Edward Goldberg	287/12	4068
27538	7590	07/27/2005		
KAPLAN & GILMAN, L.L.P. 900 ROUTE 9 NORTH WOODBIDGE, NJ 07095			EXAMINER BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 07/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/689,226	GOLDBERG, EDWARD	
	Examiner	Art Unit	
	James R. Brittain	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 12,26 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 13-23, 25, 27-29 and 31 is/are rejected.
- 7) ☒ Claim(s) 10 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on May 5, 2005 is acknowledged.

Claims 12, 26 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 5, 2005.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3677

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 15, 29 and 31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 2001-78874.

JP 2001-78874 (figure 3) teaches a novelty figurine comprising a head portion, a body portion including a neck portion located proximate the head portion and a carabiner attachment assembly 1 extending from the neck portion via the tether 2, 3, 6, 7 for selectively allowing the figurine to be attached to or removed from another item able to receive the carabiner, the attachment assembly comprising three legs with one of the legs having a selectively openable gate. As to claim 29 the carabiner assembly includes a body portion comprising the portion of the carabiner defining an aperture, tether 2, 3, 6, 7, 8 and figurine. The figurine would inherently have a 3-dimensional facial image.

Claims 1, 15, 29 and 31 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kelleghan (US D486377).

Kelleghan (figures 1-3) teaches a novelty figurine comprising a head portion, a body portion and a carabiner attachment assembly extending from the body portion for selectively allowing the figurine to be attached to or removed from another item able to receive the carabiner, the attachment assembly comprising three equally curved contiguous legs with one of the legs having a selectively openable gate.

Claim Rejections - 35 USC § 103

Art Unit: 3677

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of JP 2001-78874 or Kelleghan (US D486377) each taken in view of Henderson et al. (US 6247730) and Ayon et al. (US 4815999).

JP 2001-78874 (figure 3) teaches a novelty figurine comprising a head portion, a body portion including a neck portion located proximate the head portion and a carabiner attachment assembly 1 extending from the neck portion via the tether 2, 3, 6, 7 for selectively allowing the figurine to be attached to or removed from another item able to receive the carabiner, the attachment assembly comprising three legs with one of the legs having a selectively openable gate.

Further, Kelleghan (figures 1-3) teaches a novelty figurine comprising a head portion, a body portion and a carabiner attachment assembly extending from the body portion for selectively allowing the figurine to be attached to or removed from another item able to receive the carabiner, the attachment assembly comprising three equally curved contiguous legs with one of the legs having a selectively openable gate.

The difference is that neither JP 2001-78874 nor Kelleghan place a door in the figurine for storing items therein.

However, Henderson et al. (figures 1, 2) teaches forming a facial body 12 with a mouth 16 that can be opened and closed to store an item therein while using a snap hook 20 to secure

Art Unit: 3677

the facial body to an item. Further, Ayon (figures 1, 2) teaches that it is common when utilizing a figurine with a 3-dimensional face 38 to utilize a handle 62 to hold the figurine while also having a door 50 hinged 54 so that items can be placed in the body of the figurine.

As it would be beneficial to utilize the devices of either JP 2001-78874 or Kelleghan for added utility so as to store items, it would have been obvious to modify the figurines of either JP 2001-78874 or Kelleghan so as to place a door in the figurine for storing items therein in view of Henderson et al. (figures 1, 2) teaching forming a facial body 12 with a mouth 16 that can be opened and closed to store an item therein while using a snap hook 20 to secure the facial body to an item and Ayon (figures 1, 2) teaching that it is common when utilizing a figurine with a 3-dimensional face 38 to utilize a handle 62 to hold the figurine while also having a door 50 hinged 54 so that items can be placed in the body of the figurine a benefit with utility over the designs of the figurines of JP 2001-78874 or Kelleghan.

Claims 4-9, 11, 18-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of JP 2001-78874 or Kelleghan (US D486377) each taken in view of Henderson et al. (US 6247730) as applied to claims 2 and 16 above, and further in view of JP 10-118340.

Further modification of the figurines of either JP 2001-78874 or Kelleghan so that the figurine is an item that can stand would have been obvious since standing figurines or dolls are well known as evidenced by JP 10-118340 (figure 1a, 2) that shows a standing doll with a hinged door for storage. As to claims 5, 6, 11, 19, 20 and 25, JP 10-118340 suggest in figures 4, 5, 10, 11 hinging the door in the lower portion of the body with a securement feature at the top of the door so as to have the storage compartment within the body of the of the figurine when the door is closed. It would have been obvious to further modify the figurines of either JP 2001-78874 or

Art Unit: 3677

Kelleghan so that the door suggested by Ayon et al. is in the body of the figurine so as to have easier access. As to claims 7-9 and 21-23, the placement of the head at the top of the door is an aesthetic choice over the stopping of the door in the below the head of the doll as taught by JP 10-118340 and as an aesthetic choice it lacks any utility and is obvious over the teachings of JP 10-118340.

Claims 13, 14, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of JP 2001-78874 or Kelleghan (US D486377) each taken in view of Forrest (US 3563430).

JP 2001-78874 (figure 3) teaches a novelty figurine comprising a head portion, a body portion including a neck portion located proximate the head portion and a carabiner attachment assembly 1 extending from the neck portion via the tether 2, 3, 6, 7 for selectively allowing the figurine to be attached to or removed from another item able to receive the carabiner, the attachment assembly comprising three legs with one of the legs having a selectively openable gate.

Further, Kelleghan (figures 1-3) teaches a novelty figurine comprising a head portion, a body portion and a carabiner attachment assembly extending from the body portion for selectively allowing the figurine to be attached to or removed from another item able to receive the carabiner, the attachment assembly comprising three equally curved contiguous legs with one of the legs having a selectively openable gate.

The difference is that neither JP 2001-78874 nor Kelleghan clearly show the construction of the carabiner. It would have been obvious to utilize either a pivoted gate or resilient gate for

Art Unit: 3677

the construction of the carabiner gate in view of Forrest (figures 2, 4) teaching that both configurations provide adequate functioning gates to hold on the carabiner.

Allowable Subject Matter

Claims 10 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Glass (US 4768648, figure 6), Lehmann et al. (US 4946413, figures 7, 8), Vigueras Pacheco (US 4765460, figure 1), Holt (US 6350169, figures 1-5), Abbondandolo (US 6554680, figure 1), Preziosi et al. (US 20030051317, figures 1-3), Jauregui (US 6663458, figures 1-4), Heard (US D73258, figures 1, 2), JP 2002-126361 (figures 1, 2), JP 5-123456 (figures 1, 2), JP 2000-330071 (figures 1, 3) and Wes et al. (WO 88/02605, figure 1) teaches pertinent figurine and connection structure.

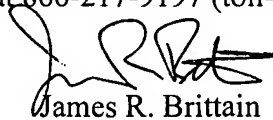
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 3677

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB